

House File 277 - Reprinted

HOUSE FILE _____
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HSB 50)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the deregulation of communications services
2 including considering market forces, eliminating accounting
3 plan requirements, establishing antitrust procedures and
4 remedies, eliminating reporting requirements, eliminating the
5 Iowa broadband initiative, and providing a penalty.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 1 Section 1. Section 476.1D, subsections 1, 2, and 3, Code
2 2005, are amended to read as follows:
3 1. Except as provided in this section, the jurisdiction of
4 the board as to the regulation of communications services is
5 not applicable to a service or facility that is provided or is
6 proposed to be provided by a telephone utility that is or
7 becomes subject to effective competition, as determined by the
8 board.
9 a. In determining whether a service or facility is or
10 becomes subject to effective competition, the board shall
11 consider, among other factors, whether a comparable service or
12 facility is available from a supplier other than the telephone
13 utility in the geographic market being considered by the board
14 and whether market forces in that market are sufficient to
15 assure just and reasonable rates without regulation.
16 b. When considering market forces in the market proposed
17 to be deregulated, the board shall consider factors including
18 but not limited to the presence or absence of all of the
19 following:
20 (1) Wireless communications services.
21 (2) Cable telephony services.
22 (3) Voice over internet protocol services.
23 (4) Economic barriers to the entry of competitors or
24 potential competitors in that market.
25 c. In addition to other services or facilities previously
26 deregulated, effective July 1, 2005, and at the election of
27 each telephone utility subject to rate regulation, the
28 jurisdiction of the board is not applicable to the retail rate
29 regulation of business and retail local exchange services
30 provided throughout the state except for single line flat=
31 rated residential and business service rates provided by a
32 telephone utility subject to rate regulation on January 1,
33 2005. For each such telephone utility, the initial single
34 line flat-rated residential and business service rates shall
35 be the corresponding rates charged by the utility as of
2 1 January 1, 2005. The initial single flat-rated residential
2 2 monthly service rates may be increased by an amount not to
2 3 exceed one dollar per twelve-month period beginning July 1,
2 4 2005, and ending June 30, 2008. The initial single flat-rated
2 5 business monthly service rates may be increased by an amount
2 6 not to exceed two dollars per twelve-month period beginning
2 7 July 1, 2005, and ending June 30, 2008. However, the single
2 8 line flat-rated residential service rate shall not exceed
2 9 nineteen dollars per month and the single line flat-rated
2 10 business service rate shall not exceed thirty-eight dollars
2 11 per month prior to July 1, 2008, not including charges for
2 12 extended area service, regulatory charges, taxes, and other
2 13 fees. Each telephone utility's extended area service rates
2 14 shall not be greater than the corresponding rates charged by

2 15 the telephone utility as of January 31, 2005. The board shall
2 16 determine a telephone utility's extended area service rates
2 17 for new extended area service established on or after July 1,
2 18 2005. If a telephone utility fails to impose the rate
2 19 increase during any twelve-month period, the utility shall not
2 20 impose the unused increase in any subsequent year. In
2 21 addition to the rate increases permitted pursuant to this
2 22 section, the telephone utility may adjust its single line
2 23 flat-rated residential and business service rates by a
2 24 percentage equal to the most recent annual percentage change
2 25 in the gross domestic product price index as published by the
2 26 federal government. The board may also authorize additional
2 27 changes in the monthly rates for single line flat-rated
2 28 residential and business services to reflect exogenous factors
2 29 beyond the control of the telephone utility.

2 30 A telephone utility that elects to increase single line
2 31 flat-rated residential or business service rates pursuant to
2 32 this paragraph "c" shall offer digital subscriber line
2 33 broadband service in all of the telephone utility's exchanges
2 34 in this state within eighteen calendar months of the first
2 35 rate increase made pursuant to this paragraph "c" by the
3 1 telephone utility. The board may extend this deadline by up
3 2 to nine calendar months for good cause. The board may assess
3 3 a civil penalty or require a refund of all incremental revenue
3 4 resulting from the rate increase initiated pursuant to this
3 5 paragraph "c" if the telephone utility fails to offer digital
3 6 subscriber line broadband service within the time period
3 7 required by this unnumbered paragraph.

3 8 Effective July 1, 2008, the retail rate jurisdiction of the
3 9 board shall not be applicable to single line flat-rated
3 10 residential and business service rates unless the board during
3 11 the first six calendar months of 2008 extends its retail rate
3 12 jurisdiction over single line flat-rated residential and
3 13 business service rates provided by a previously rate-regulated
3 14 telephone utility. The board may extend its jurisdiction
3 15 pursuant to this paragraph for not more than two years and may
3 16 do so only after the board finds that such action is necessary
3 17 for the public interest. The board shall provide the general
3 18 assembly with a copy of any order to extend its jurisdiction
3 19 and shall permit any telephone utility subject to the
3 20 extension to increase single line flat-rated residential and
3 21 business monthly service rates by an amount up to two dollars
3 22 during each twelve-month period of the extension. If a
3 23 telephone utility fails to impose such a rate increase during
3 24 any twelve-month period, the utility may not impose the unused
3 25 increase in any subsequent year.

3 26 2. Deregulation Except as provided in subsection 1,
3 27 paragraph "c", deregulation of a service or facility for a
3 28 utility is effective only after all of the following:
3 29 a. A finding of effective competition by the board.
3 30 b. Election by a utility providing the service or facility
3 31 to file a deregulation accounting plan.
3 32 c. Approval of a utility's deregulation accounting plan by
3 33 the board.

3 34 3. If the board determines finds that a service or
3 35 facility is subject to effective competition and approves the
4 1 utility's deregulation accounting plan, the board shall
4 2 deregulate the service or facility within a reasonable time.

4 3 Sec. 2. Section 476.55, Code 2005, is amended to read as
4 4 follows:

4 5 476.55 COMPLAINT OF ANTITRUST ACTIVITIES.

4 6 1. An application for new or changed rates, charges,
4 7 schedules or regulations filed under this chapter, or an
4 8 application for a certificate or an amendment to a certificate
4 9 submitted under chapter 476A, by an electric transmission line
4 10 utility or a gas pipeline utility or a subsidiary of either
4 11 shall not be approved by the board if, upon complaint by an
4 12 Iowa electric or gas utility, the board finds activities which
4 13 create or maintain a situation inconsistent with antitrust
4 14 laws and the policies which underlie them. The board may
4 15 grant the rate or facility certification request once it
4 16 determines that those activities which led to the antitrust
4 17 complaint have been eliminated. However, this subsection does
4 18 not apply to an application for new or changed rates, charges,
4 19 schedules or regulations after the expiration of the ten=
4 20 month limitation and applicable extensions.

4 21 2. Notwithstanding section 476.1D, the board may receive a
4 22 complaint from a local exchange carrier that another local
4 23 exchange carrier has engaged in an activity that is
4 24 inconsistent with antitrust laws and the policies which
4 25 underlie them. For purposes of this subsection, "local

4 26 exchange carrier" means the same as defined in section 476.96
4 27 and includes a city utility authorized pursuant to section
4 28 388.2 to provide local exchange services. If, after notice
4 29 and opportunity for hearing, the board finds that a local
4 30 exchange carrier has engaged in an activity that is
4 31 inconsistent with antitrust laws and the policies which
4 32 underlie them, the board may order any of the following:
4 33 a. The local exchange carrier to adjust retail rates in an
4 34 amount sufficient to correct the antitrust activity.
4 35 b. The local exchange carrier to pay any costs incurred by
5 1 the complainant for the pursuit of the complaint.
5 2 c. The local exchange carrier to pay a civil penalty.
5 3 d. Either the local exchange carrier or the complainant to
5 4 pay the costs of the complaint proceeding before the board,
5 5 and the other party's reasonable attorney fees.
5 6 This subsection shall not be construed to modify, restrict,
5 7 or limit the right of a person to bring a complaint under any
5 8 other provision of this chapter.
5 9 Sec. 3. Section 476.97, subsection 12, Code 2005, is
5 10 amended by striking the subsection.
5 11 Sec. 4. Section 476.98, Code 2005, is repealed.
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